

§ 70.187

§§ 70.170 and 70.207(a)(2) of this part with respect to surplus proceeds.

(26 U.S.C. 6339)

§ 70.187 Records of sale.

(a) *Requirement.* Each appropriate TTB officer shall make a record of all sales under 26 U.S.C. 6335 of real property situated within his or her jurisdiction and of redemptions of such property. The records shall set forth the tax for which any such sale was made, the dates of seizures and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed. In the case of redemption of the property, the records shall additionally set forth the date of such redemption and of the transfer of the certificate of sale, the amount of the redemption price, and the name of the party to whom such redemption price was paid. The original record shall be retained by the appropriate TTB officer.

(b) *Copy as evidence.* A copy of such record, or any part thereof, certified by the appropriate TTB officer shall be evidence in any court of the truth of the facts therein stated.

(26 U.S.C. 6340)

[T.D. ATF-301, 55 FR 47627, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29027, May 29, 2001]

§ 70.188 Expense of levy and sale.

The appropriate TTB officer shall determine the expenses to be allowed in all cases of levy and sale. Such expenses shall include the expenses of protection and preservation of the property during the period subsequent to the levy, as well as the actual expenses incurred in connection with the sale thereof. In case real and personal property (or several tracts of real property) are sold in the aggregate, the appropriate TTB officer shall properly apportion the expenses to the real property (or to each tract).

(26 U.S.C. 6341)

27 CFR Ch. I (4-1-07 Edition)

JUDICIAL PROCEEDINGS

Civil Action by the United States

SOURCE: Sections 70.191 through 70.193 added by T.D. ATF-301, 55 FR 47633, Nov. 14, 1990.

§ 70.191 Authorization.

(a) *In general.* A civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture (with respect to the provisions of 26 U.S.C. enforced and administered by the Bureau) will be commenced when the appropriate TTB officer, directs that the action be commenced.

(b) *Property held by banks.* The appropriate TTB officer shall not authorize or sanction any civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, from any deposits held in a foreign office of a bank engaged in the banking business in the United States or a possession of the United States unless the appropriate TTB officer believes:

(1) That the taxpayer is within the jurisdiction of a U.S. court at the time the civil action is authorized or sanctioned and that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office of the bank outside the United States or a possession of the United States; or

(2) That the taxpayer is not within the jurisdiction of a U.S. court at the time the civil action is authorized or sanctioned, that the bank is in possession of (or obligated with respect to) deposits of the taxpayer in an office of the bank outside the United States or a possession of the United States, and that such deposits consist, in whole or in part, of funds transferred from the United States or a possession of the United States in order to hinder or delay the collection of a tax imposed by the provisions of 26 U.S.C. enforced and administered by the Bureau.

(26 U.S.C. 7401)

[T.D. ATF-301, 55 FR 47633, Nov. 14, 1990, as amended by 66 FR 29027, May 29, 2001]

§ 70.192 Action to enforce lien or to subject property to payment of tax.

(a) *Civil actions.* In any case where there has been a refusal or neglect to